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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

Arizona Corporation Commission

DOCKETED

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OCT 10 2003

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

DOCKETED BY

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AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
BENSCH RANCH UTILITIES, LLC FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE SEWER SERVICE.

DOCKET NO. SW-04026A-01-0499

FOURTH PROCEDURAL ORDER**BY THE COMMISSION:**

On June 21, 2001, Bensch Ranch Utilities, LLC ("Bensch Ranch" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("Certificate" or "CC&N") to provide wastewater service to two subdivisions in Yavapai County, Arizona ("Application").

On July 18, 2001, the Commission's Utilities Division Staff ("Staff") filed a letter notifying the Company that its application was administratively insufficient. The Company filed an amendment to its application on January 15, 2002, and on November 27, 2002, Staff notified the Company that the application was administratively sufficient. On November 29, 2002, Staff filed a Staff Report on the application recommending approval subject to certain conditions.

By Procedural Order issued December 5, 2002, this matter was scheduled for hearing on February 19, 2003. The December 5, 2002 Procedural Order required the Company to publish notice of the hearing, and to cause the notice to be mailed to all property owners and all entities with contracts pending to purchase real property in the requested CC&N area, by January 10, 2003.

By Procedural Order issued February 14, 2003, the hearing was rescheduled for April 16, 2003, due to the Company's failure to provide notice. The Company published notice of the new hearing date, and the hearing was held as scheduled on April 16, 2003. Following the hearing, the intervention deadline was extended to May 23, 2003, to allow notice to be mailed to property owners, as required by the February 14, 2003 Procedural Order.

A Proposed Opinion and Order was docketed in this matter on July 2, 2003, and was

1 scheduled for consideration at the Commission's Working Session and Open Meeting to be held on
2 July 22 and 23, 2003.

3 Prior to that Open Meeting, it was discovered that the legal description provided by the
4 Company for the proposed CC&N territory was incorrect. Because attempts to obtain a correct legal
5 description from the Company were unsuccessful, a letter was mailed to the Company and docketed
6 on July 11, 2003, informing the Company that unless a correct legal description was docketed by July
7 21, 2003, the Hearing Division would request that the Proposed Opinion and Order be pulled from
8 the July 22 and 23, 2003 Open Meeting Agenda.

9 The Company filed exceptions to the Proposed Opinion and Order on July 14, 2003.

10 On July 21, 2003, the Company filed a letter with a legal description attached. At the Open
11 Meeting on July 22, 2003, Staff stated that the legal description attached to that letter was still
12 incorrect, and the Commission determined that it would not consider the Proposed Opinion and Order
13 until a correct legal description of the Company's proposed CC&N service territory is provided to the
14 Commission.

15 As of this date, because no correct legal description has been docketed or provided to Staff,
16 the record remains incomplete regarding the Company's proposed CC&N service territory. It is
17 therefore necessary that the timeclock for a Commission Decision on the Application be extended
18 pursuant to A.A.C. R14-2-610(C).

19 IT IS THEREFORE ORDERED that Bensch Ranch Utilities, LLC shall file a correct legal
20 description of the service territory for the Certificate of Convenience and Necessity proposed in its
21 June 21, 2001 application no later than November 28, 2003.

22 IT IS FURTHER ORDERED that the timeclock for a Commission Decision in this matter is
23 hereby suspended pending the submission by Bensch Ranch Utilities, LLC, of a correct legal
24 description of the service territory for the Certificate of Convenience and Necessity proposed in its
25 June 21, 2001 application, and that the suspension shall be effective as of July 22, 2003.

26 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
27 Communications) applies to this proceeding and shall remain in effect until the Commission's
28 Decision in this matter is final and non-appealable.

1 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
2 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.
3

4 DATED this 10th day of October, 2003.

5
6
7 
8 TEENA WOLFE
ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 10th day of October, 2003 to:

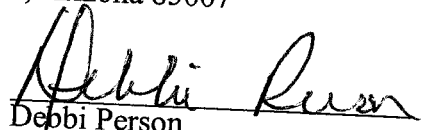
11 Joshua Meyer
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Pivotal Utility Management
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16 Denver, Colorado 80224

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Legal Division
18 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
19 Phoenix, Arizona 85007

20 Ernest G. Johnson, Director
Utilities Division
21 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
22 Phoenix, Arizona 85007

23 By:

24 
Debbi Person
25 Secretary to Teena Wolfe
26
27
28

JUL 21 2003 16:53

JOSHUA J. MEYER, ATTORNEY (928)

OPEN MEETING AGENDA ITEM

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July 21, 2003

SENT VIA FACSIMILE (602) 542-4230

Arizona Corporation Commission
Utilities Division
1200 W. Washington
Phoenix, AZ 85007

SW-04026A-01-0499

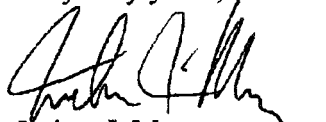
Re: BENSCH RANCH UTILITIES, L.L.C.

Ladies/Gentlemen:

Enclosed for filing please find the corrected legal description for Bensch Ranch Utilities, L.L.C. I believe this has been filed in time to proceed with the hearing tomorrow. If not, please call me at (928) 580-5522. I apologize for any inconvenience this late filing has caused.

If you have any questions, please do not hesitate to contact me.


Very truly yours,


Joshua J. Meyer

Enclosures

Arizona Corporation Commission
DOCKETED

JUL 21 2003

DOCKETED BY	
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**BOUNDARY DESCRIPTION
BENSCH RANCH UTILITIES SEWER SERVICE AREA**

The Bensch Ranch Parcel:

A parcel of land lying within a portion of Section 6, Township 11 North, Range 2 East, and a portion of Section 31, Township 12 North, Range 2 East, of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

BEGINNING at a found G.L.O. brass cap at the Northeast corner of G.L.O. Lot 1 of said Section 6 (the Northeast quarter of the Northeast quarter of said Section 6 as recorded in Book 2810 of Official Records, Page 683 in file in the office of the Yavapai County Recorder, Yavapai County, Arizona;

Thence, South $0^{\circ}00'47''$ West, along the East line of said Section 6, a distance of 2662.89 feet to a found B.L.M. brass cap at the East quarter corner of said Section 6;

Thence, South $0^{\circ}00'16''$ East, along the East line of said Section 6, a distance of 2649.22 feet to a found B.L.M. brass cap at the Southeast corner of said Section 6;

Thence, North $89^{\circ}18'10''$ West, along the South line of said Section 6, a distance of 2644.22 feet to a found B.L.M. brass cap at the South quarter corner of said Section 6;

Thence, North $89^{\circ}15'39''$ West, along the South line of said Section 6, a distance of 1322.82 feet to the Southwest corner of the Southeast quarter of the Southwest quarter of said Section 6;

Thence, North $0^{\circ}06'50''$ West, 2642.94 feet to the Northwest corner of the Northeast quarter of the Southwest quarter of said Section 6;

Thence, North $0^{\circ}07'17''$ West, 1322.23 feet to the Northeast quarter of the Southeast quarter of the Northwest quarter of said Section 6;

Thence, North $89^{\circ}25'38''$ West, 1226.10 feet to the Southwest corner of G.L.O. Lot 4 of said Section 6;

Thence, North $0^{\circ}01'07''$ West, along the West line of said G.L.O. Lot 4, a distance of 1321.21 feet to a found B.L.M. brass cap at the Northwest corner of said Section 6, said B.L.M. brass cap also being the Southwest corner of said Section 31;

Thence, North $0^{\circ}04'35''$ East, along the West line of said Section 31, a distance of 1185.84 feet to the Northwest corner of G.L.O. Lot 5 of said Section 31;

Thence, South $89^{\circ}54'32''$ East, 2435.89 feet to the Northeast corner of G.L.O. Lot 6 of said Section 31;

Thence, South 89°46'40" East, 2647.92 feet to the Northeast corner of G.L.O. Lot 8 of said Section 31;

Thence, South 0°00'04" West, along the West line of said Section 31, a distance of 1206.63 feet to a found G.L.O. brass cap at the Southeast corner of said Section 31;

Thence, South 89°35'12" East, 116.32 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM any portion lying within State Highway 69.

Containing 643.58 total acres total, more or less (660.43 ac. less 16.85 ac. for highway right-of-way = 643.58 ac.);

AND;

The Spring Valley Parcel:

Parcel I: Tract L, lots 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 860, 861, 862, 863, 864, 865, 866, and 867, plus Tracts N & O, Spring Valley, Unit II, According to the Plat of record in Book 16 of Maps, Pages 72-74, Records of Yavapai County, AZ.

Except all Gas, Oil, Metals, and Mineral rights as reserved from said land.

Also except all Uranium, Thorium, or any other materials which is or may be particularly essential to the production of fissionable materials as reserved from said land.

And also excepting therefrom that portion of Tract O, described as follows:

Beginning at the northeast corner of lot 852, Spring Valley, Unit II;

Thence North 61 degrees, 39 minutes, 26 seconds west, 400.00 feet;

Thence South 28 degrees, 20 minutes, 34 seconds west, 100.00 feet;

Thence South 61 degrees, 39 minutes, 26 seconds east, 400.00 feet;

Thence North 28 degrees, 20 minutes, 34 seconds east, 100.00 feet to the point of the beginning.